

SELF-SERVICE CENTER

INFORMATION ON HOW TO GET A CHANGE OF CUSTODY, CHILD SUPPORT and PARENTING TIME (formerly known as "VISITATION")

IMPORTANT INFORMATION. The following is important information on when you can legally ask the court for a change of custody, parenting time and child support. Read it carefully **before** you fill out the Petition.

1. WHEN CAN YOU FILE FOR A CHANGE OF CUSTODY?

- A. IF YOU HAVE A JOINT CUSTODY ORDER** - You can **only** ask for a change of custody if the following applies to your case:
- At least one (1) year has passed since your joint custody order was signed by the court and there have been significant changes in circumstances that make a change in custody necessary for the good of the child, **OR**
 - At least six (6) months have passed and the other parent has not followed the joint custody order, **OR**
 - There has been domestic violence, spousal abuse, or child abuse and you have evidence that the best interest of your child(ren) requires a change.
- B. IF YOU HAVE A SOLE CUSTODY ORDER** - You can **only** ask for a change of custody if the following applies to your case:
- at least one(1) year has passed since your sole custody order was signed by the court, and there have been significant changes in circumstances that make a change in custody necessary for the good of the child, **OR**
 - There is reason to believe that the child(ren)'s current environment may seriously endanger the child(ren)'s physical, mental, moral or emotional health and your child(ren) is/are at risk.

WARNING: If enough time has not passed since the signing of your decree/order to allow you to file for a change of custody, you **cannot** file for a change of custody, **unless** your case falls under one of the exceptions listed above. You may, however, want to seek mediation or counseling as soon as possible (see below).

IMPORTANT: If you have reason to believe that the other parent, or someone associated with the other parent, is physically abusing or hurting your child(ren), you should contact Child Protective Services or your local Police Department immediately. If your child is in a dangerous situation, you should take steps to file for an Emergency Change of Custody as soon as possible. You will also need to fill out the **"Petition to Modify Custody"** to get a permanent change of custody. All forms are available through the Self-Service Center.

2. THINGS TO CONSIDER BEFORE FILING A CHANGE OF CUSTODY:

- A.** Filing for a change of custody and/or parenting time is a **serious matter** and generally should be considered as a **last resort**. Raising a child in two households, arranging for parenting time, and making joint decisions about a child's welfare can lead to high levels of stress, conflict, and anger between you and the other party, and the child. Unless your child is in immediate physical or emotional risk you may want to seek counseling or mediation **before** you take legal action.

Mediation is a process where you and the other parent meet with a professional who will try to help you work together to find a solution to your problem. The mediator is not there to take sides, but can help you understand the other parent's point of view. The mediator will help you approach your problems in a way that will more likely lead to an agreement and will help you to focus on your child's needs first. Mediation services are available through Expedited Parenting time Services in the

Superior Court, or through private mediation services. You may also want to consider family counseling to learn how to better deal with ongoing problems. A list of mediators and counselors is available through the Self-Service Center or you can contact Community Information and Referral Services at 602-263-8856.

- B.** To change custody, you must convince the judge through appropriate evidence, that the best interests of the child(ren) requires that custody be changed. The judge usually will **not** change custody unless you can show that there is a **substantial and continuing change of circumstances**. What this means is that you must convince the judge that something has happened since the Decree or Order was signed that will be **continuing** and which makes you the better parent to have custody of the child. Changes like a new spouse, change or loss of job, or new place of residence are generally not enough to change custody.

You must show that the change or situation has a **substantial effect** on the child's well being. Judges generally do **not** want to put a child through another serious change in surroundings, unless he or she is convinced it is necessary for the child(ren)'s welfare.

There are many things the judge may look at in deciding "the best interest of the child(ren)." The law says that the court will look at issues such as:

- how the child relates to parents, brothers and sisters;
- how the child is doing in school and socially;
- which parent is more likely to cooperate in giving parenting time to the other parent;
- which parent is better able mentally and physically to care for the child;
- which parent has provided the primary care to the child; and
- evidence of what a parent has done to convince the other parent to make a custody agreement.

The court will give serious consideration to domestic violence against you, the child, or another person in the child's presence when deciding whether or not to change custody. Evidence of drug or alcohol abuse by either parent is also an important factor in a custody decision.

4. TIPS FOR FILING A CHANGE OF CUSTODY. A change of custody has several special requirements that you should understand before you begin.

- Tip #1:** Whenever possible, try to solve your custody problems through counseling or mediation, **unless** your child(ren) is/are at immediate risk. If you don't try to solve your problems before you file, your chances of success will be reduced in court.
- Tip #2:** Before you file, make sure six (6) months have passed since your final joint custody Decree/Order was signed, or one (1) full year has passed since your sole custody Decree/Order was signed, **unless** you meet an exception listed above.
- Tip #3:** Be sure that the changes in circumstances that caused you to request the change of custody are **important** and **related to issues** of your child's long term best interest. In other words, do **not** file for a change of custody, if you simply aren't getting along with the other parent or have changed your mind about custody. Be sure that if you are making allegations of abuse or neglect, that you have witnesses or evidence to back up your statements.
- Tip #4:** If your child(ren) has/have been **seriously hurt or physically abused**, contact the appropriate authorities and file a **"Petition for Emergency Custody"** to get the child out of the dangerous environment as soon as possible. You will still need to file a **"Petition to Change Custody."** These forms are available at the Self-Service Center.